

REMARKS

Claims 1-26 are pending. The claims have been amended without prejudice or disclaimer to better comply with U.S. practice. Support is found *inter alia* in the original claims. Support for the amendments to claims 4 and 22 is also found *inter alia* at page 2, lines 30-35. No new matter has been added.

Election/Restriction

In response to the restriction requirement set forth in the Official Action mailed January 8, 2007, Applicants hereby provisionally elect Group I, claims 1-12, and 20-25, with traverse. Applicants respectfully traverse and urge reconsideration and withdrawal of the restriction requirement for the following reasons.

The Claimed Inventions Share a Special Technical Feature

Because this application is a national stage filing pursuant to 35 U.S.C. § 371, unity of invention under PCT Rule 13.1 and 13.2 is the applicable standard. Unity of invention is fulfilled “when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical feature. The expression ‘special technical feature’ shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.” (PCT Rule 13.2).

The Examiner argues that the inventions of Groups I-VIII do not relate to a single inventive concept because they lack the same or corresponding special technical feature under PCT Rule 13.2. In support, the Examiner states that the special technical feature is the enzyme-containing granulate coated with polyolefin that is suitable for animal feed which is known citing to DeLima *et al.* The Examiner concludes that there is no special technical feature linking the claims. Applicants respectfully disagree with the Examiner’s conclusions and characterization of the reference.

Applicants submit that the present invention makes a contribution over the reference cited by the Examiner. The Examiner relies on DeLima *et al.* as teaching an enzyme-containing

granulate coated with polyolefin that is suitable for animal feed. However, nowhere in DeLima *et al.* is there disclosure of any polyolefin. The Examiner references the abstract and column 11 lines 1-25 for such disclosure. Neither passage mentions a polyolefin coating. DeLima *et al.* discloses polyethylene glycol (PEG) not polyolefin. PEG belongs to a group of compounds referred to as polyether compounds, which are a totally different group of compounds than the polyolefins presently claimed (*i.e.* polyethylene, polypropylene, and /or polybutene) (see attached). Therefore, the Patent Office has not established the presence in the prior art of the special technical feature of Applicants' claims. Accordingly, Applicants respectfully request that the Examiner reconsider the restriction requirement and examine all the claims in one application.

Furthermore, the coated granule described in DeLima *et al.* is in reference to granules for use in detergents and not for granules suitable for animal feed.

Additionally, the method of claim 1 is similar to the method of co-pending U.S. Application Serial No. 10/125,272, which the Board of Patent Appeals and Interferences found nonobvious and not anticipated over DeLima *et al.*, which was considered and discussed in detail by the Board (see attached Decision, Appeal No. 2006-0201, hereinafter "the Board Decision"). In fact, the special technical feature of the present claims are even less similar to DeLima than the claims of the '272 application, which was found nonobvious over DeLima. Specifically, the present claims require a polyolefin coating, whereas the '272 claims and DeLima disclose a polyethylene glycol coating. Therefore, because the present invention is even less similar to DeLima than the claims held to be nonobvious over DeLima, surely one must conclude the present invention is not known from DeLima. Additionally, for the same reasons as in the Board Decision, the special technical feature of the present claims makes a contribution over the reference cited by the Examiner.

Moreover, for at least the claims of Groups I-III and VI, the claims are directed to an enzyme-containing granulate coated with polyolefin that is suitable for animal feed (Group II, claim 13), to a process for manufacturing said enzyme-containing granulate coated with polyolefin (Group I, claims 1-12, 20-25), and to a process of use of said enzyme-containing

granulate coated with polyolefin (Group III, claims 14-15, and Group VI, claim 18). Therefore, all groups share the same or corresponding technical features of the enzyme-containing granulate coated with polyolefin that is suitable for animal feed, methods of making it, and methods of using it. Please note that as explained in Chapter 10 §10.13 of the PCT International Search and Preliminary Examination Guidelines, the “words ‘specially adapted’ are not intended to imply that the product could not also be manufactured by a different process.” Thus, unity of invention is additionally fulfilled because the claims are directed to a product, a process specially adapted for the manufacture of the said product, and a process of use of said product, which are an acceptable combination of categories for unity pursuant to 37 CFR § 1.475(b)(3). Accordingly, Applicants respectfully request that the Examiner reconsider the restriction requirement and examine at least the claims of Groups I-III and VI in one application.

There Is No Undue Burden To Search And Examine All Groups

Applicants believe that there is no undue burden on the Examiner to search and examine all groups in one application. All the claims were searched and examined by the International Search Authority and the International Examination Authority. The International Examiner found that the claims were novel, had inventive step and industrial applicability.

Furthermore, unity of invention was found during the International stage. As shown in the International Preliminary Examination Report and International Search Report, the claims were searched and examined together. As described in MPEP § 1850 subsection I, the unity of invention standard applicable to the International stage is equally applicable during the national stage. Furthermore in MPEP § 1850 subsection II, “the decision with respect to unity of invention rests with the International Searching Authority or the International Preliminary Searching Authority.” The International Searching Authority and the International Preliminary Searching Authority applying the correct standard for unity of invention under PCT Rules 13.1 and 13.2 found that unity exists.

Moreover, PCT Article 27 entitled “National Requirements,” provides in part “(1) No national law shall require compliance with requirements relating to form or contents of the

international application different from or additional to those which are provided for in this Treaty and the Regulations.” Thus under PCT Article 27(1), the issue of lack of unity of invention should not be raised in the national phase of a PCT application when the issue was not raised during the PCT phase. Because there was no lack of unity rejection during the international phase by either the International Searching Authority or the International Preliminary Searching Authority, such a restriction is unjustified in the national phase of the present application.

Conclusion

For at least the above reasons, Applicants respectfully request that the restriction requirement be reconsidered and withdrawn.

In the event that the Examiner decides to maintain the original restriction requirement, Applicants provisionally elect Group I, claims 1-12, and 20-25, with traverse. In the alternative, Applicants respectfully request that at least Groups I-III and VI (claims 1-15, 18, and 20-25) be examined in one application.

Accompanying this response is a petition for a one-month extension of time to and including March 8, 2007 to respond to the Office Action mailed January 8, 2007 with the required fee authorization. No further fee is believed due. However, if any additional fee is due, the Director is hereby authorized to charge our Deposit Account No. 03-2775, under Order No. 12810-00240-US from which the undersigned is authorized to draw.

Respectfully submitted,

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